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TN REGULATORY AUTHORITY  
DOCKET ROOM

July 20, 2005

Honorable Ron Jones, Chairman  
Tennessee Regulatory Authority  
ATTN: Sharla Dillon, Dockets  
460 James Robertson Parkway  
Nashville, TN 37243-5015

RE. Joint Petition for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended

Tennessee Regulatory Authority Docket No. 04-00046

CLARIFICATION for Joint Petitioners' Rebuttal to BellSouth's Reply Regarding Removing Certain Issues from the Joint Petitioners' Section 252 Arbitration Proceeding

Dear Chairman Jones:

It has been brought to my attention that a footnote reference in the Joint Petitioners' Rebuttal filed July 18, 2005 in the above-referenced matter perhaps needs clarification

Footnote 18 of the Joint Petitioners' Rebuttal in the above-captioned arbitration states that "[t]he Tennessee Regulatory Authority similarly rebuffed efforts by BellSouth to remove issues from an earlier Section 252 arbitration involving ICG."<sup>1</sup> The TRA Order quoted in that note was issued within ICG arbitration and held, *inter alia*, that the Authority has jurisdiction to consider in a Section 252 arbitration whether BellSouth has a forecasting obligation.<sup>2</sup> The TRA reasoned that *US West Communications Inc v Minnesota Public Utilities Commission*,<sup>3</sup> which

<sup>1</sup> *Joint Petition for Arbitration of NewSouth Communications Corp, et al with BellSouth Telecommunications, Inc*, Joint Petitioners' Rebuttal to BellSouth's Reply Regarding Removing Certain Issues from the Joint Petitioners' Section 252 Arbitration Proceeding, Docket No. 04-00046 at 7, n 18 (July 18, 2005)

<sup>2</sup> *Petition by ICG Telecom Group, Inc for Arbitration of an Interconnection Agreement with Bellsouth Telecommunications, Inc Pursuant to 252(b) of the Telecommunications Act of 1996*, Final Arbitration Order, Docket No 99-00377 at 9 (Aug 4, 2000).

<sup>3</sup> *US West Communications, Inc v Minnesota Pub Utils Comm'n*, 55 F Supp 2d 968, 985 (D. Minn 1999).

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held that "a state commission has the authority to resolve in an arbitration proceeding 'any open issues' relating to interconnection, whether or not those issues are expressly covered by Section 251,"<sup>4</sup> rendered the forecasting matter an "open issue" that could properly be decided in a Section 252 arbitration. Accordingly, the TRA's decision supports the Joint Petitioners' position that BellSouth may not shield open, negotiated interconnection issues from a Section 252 arbitration

Respectfully submitted,



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*Counsel for the Joint Petitioners*

**Certificate of Service**

The undersigned hereby certifies that a true and correct copy of the foregoing has been forwarded via electronic transmission to the following, this the 20<sup>th</sup> day of July, 2005.

Guy Hicks, Esq.  
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